

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

BAYER PHARMA AG, BAYER	)	
INTELLECTUAL PROPERTY GMBH,	)	
and BAYER HEALTHCARE	)	
PHARMACEUTICALS INC.,	)	
	)	
Plaintiffs,	)	
	)	C.A. No. 12-517-GMS
v.	)	CONSOLIDATED
	)	
WATSON LABORATORIES, INC., et al.	)	
	)	
Defendants.	)	

**~~PROPOSED~~ AMENDED FINAL JUDGMENT ORDER FOR  
U.S. PATENT NOS. 6,362,178; 7,696,206; AND 8,613,950**

In April 2015, the Court conducted a bench trial in the above-referenced matter. For the reasons set forth in the Memoranda issued on April 27, 2016 (D.I. 172) and May 2, 2016 (D.I. 175), and for the reasons stated on the record at the close of trial, Tr. 1170-76, the Court hereby enters the following amended judgment in the above-referenced matter with respect to U.S. Patent No. 6,362,178 (“the ’178 patent”), U.S. Patent No. 7,696,206 (“the ’206 patent”), and U.S. Patent No. 8,613,950 (“the ’950 patent”):

1. The drug product that is the subject of Defendant Watson Laboratories, Inc., Actavis, Inc., and Actavis Pharma, Inc.’s (“Watson”) Abbreviated New Drug Application (“ANDA”) No. 203689 (including any amendments or supplements thereto) (“Watson’s ANDA Product”), as well as the active ingredient therein, infringe each of claims 1-5 of the ’178 patent and claims 1-3 of the ’206 patent. Watson’s ANDA Product also infringes each of claim 7 of the ’178 patent, claim 4 of the ’206 patent, and claims 9 and 11 of the ’950 patent. In addition, the use of Watson’s ANDA Product, as well as the use of the active ingredient contained therein, in

accordance with the label submitted in Watson's ANDA No. 203689, infringe each of claim 8 of the '178 patent and claims 5-6 of the '206 patent.

2. Claims 1-5, 7, and 8 of the '178 patent are not invalid due to obviousness.

3. Claims 1-6 of the '206 patent are not invalid due to obviousness.

4. Claims 9 and 11 of the '950 patent are not invalid due to obviousness or for indefiniteness.

5. Pursuant to 35 U.S.C. § 271(e)(4)(A), the effective date of any Food and Drug Administration approval of Watson's ANDA No. 203689 shall be a date not earlier than the latest of the expiration of the '178 patent (October 31, 2018), the '206 patent (October 31, 2018), and the '950 patent (December 23, 2028), as well as any extensions thereto.

6. Judgment is hereby entered in favor of Plaintiffs Bayer Pharma AG, Bayer Intellectual Property GmbH, and Bayer HealthCare Pharmaceuticals Inc. (collectively "Bayer") and against Watson on (a) Bayer's claim of infringement of claims 1-5, 7, and 8 of the '178 patent; (b) Bayer's claim of infringement of claims 1-6 of the '206 patent; (c) Bayer's claim of infringement of claims 9 and 11 of the '950 patent; and (d) Watson's counterclaims seeking declaratory judgments of non-infringement and invalidity with respect to the '178, '206, and '950 patents.

SO ORDERED this 9<sup>th</sup> day of June 2016

  
UNITED STATES DISTRICT JUDGE